

UNITED STATES DISTRICT COURT

for the

Southern District of OHIOSouthwest Division

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SEP 22 2021

RICHARD W. NAGEL, CLERK OF COURT
COLUMBUS, OHIO

2 2 1 C V 4 7 5 2

Case No.

(to be filled in by the Clerk's Office)

Judge Watson

MAGISTRATE JUDGE JOLSON

Troy Delano McRae Jr.

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Lt. Lendsey, M. Tedesco

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Troy Delano McRae Jr. #

All other names by which
you have been known:

ID Number

A739-664

Current Institution

R.C.I.

Address

PO BOX 7010

Chillicothe

OH

45601

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Lt. Lendsey

Job or Title (*if known*)

Lt.

Shield Number

Employer

Ross Correctional Institution (DOC)

Address

16149 State Route 104

Chillicothe

OH

45601

City

State

Zip Code

☒ Individual capacity
 ☐ Official capacity

Defendant No. 2

Name

M. Tedesco

Job or Title (*if known*)

C.O.

Shield Number

Employer

Ross Correctional Institution (DOC)

Address

16149 State Route 104

Chillicothe

OH

45601

City

State

Zip Code

☒ Individual capacity
 ☐ Official capacity

Defendant No. 3

Name _____

Job or Title (if known) _____

Shield Number _____

Employer _____

Address _____

City _____

State _____

Zip Code _____

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name _____

Job or Title (if known) _____

Shield Number _____

Employer _____

Address _____

City _____

State _____

Zip Code _____

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

My 4th Amendment Right to feel safe and secure in my person; 8th Amendment (cruel and unusual punishment); and 14th Amend. (Due Process)

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed. *I went to a RIB hearing on 7-15-21 for a wrongful Rule #14 that I received on 7-13-21. I was told by 1st shift Captain, 'Yates' that he would have the RIB hearing officer Sgt. Lyons pull up the video from the ~~the~~ date of the Conduct Report so it could be used as my evidence that I was innocent. Sgt. D. Lyons stated "I don't have to pull up the video", at that point I got down on my knees and requested that*
(See Attachment)

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☒ Other (explain) *wrongful incarceration. Waiting on decision on Motion to suppress. Case no. 3:20-cv-168-WHR-MRM (4th Amendment violation U.S. Const.) (I never received a final judgement)*

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.
In Housing Unit 5-A on Thursday July 15, 2021 at approximately 7:40 AM. Lt. Lendsey, M. Tedesco physically grabbed me up from the floor. Lt. Lendsey took hold of my fingers and bent
(See Attachment)

- C. What date and approximate time did the events giving rise to your claim(s) occur?

Thursday July 15, 2021 at approximately 7:40 AM

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?) I was physically assaulted by Lt. Lendsey, M. Tedesco, and other Officers. Lt. Lendsey and other officers ~~also~~ physically removed me from the floor. Lt. Lendsey bent my middle fingers back, and yanked my arms through the cuff port - (He and M. Tedesco). I'm not sure who actually injured my thumb because there were too many C.O.'s surrounding me. Inmate Peterson who was my witness at RIB saw the incident. And Nurse Mike Scott who also was my witness at RIB saw the incident.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. I sustained injuries to my knuckles on my left hand and to my right thumb. They did an x-Ray on my left hand and my right hand. The nurse wrapped my left hand up, but I was never prescribed any medication for the pain. They said there was no fracture, however, my middle knuckle on my ~~right~~ left hand is overlapping the knuckle of the ring finger. I received no medical treatment to my right thumb whatsoever. It's been a month and still no medicine for the pain.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims. I want all the parties involved to be relieved of their duties. I also want the courts to order all parties involved to pay the plaintiff \$300,000 for their role in the incident. The basis for these claims is to deter future behavior of other officers who might act contrary to ODRC policy, procedures, and rules and regulations. Also because I'm traumatised behind the incident. I'm always scared to be around officers when I'm supposed to feel safe and protected by them.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

R.C.I. ~~PO BOX~~ 16149 State Route 104 Chillicothe, OH 45601

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)? Cruel and Unusual Punishment 8th Amendment;
Chapter 5120-9 Use of Force; Institutional Rules
5120-9-04 (Use of Force with No Report)

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

R.C.I. Housing Unit-9

2. What did you claim in your grievance?

That I was injured by Lt. Lendsey, M. Tedesco and other officers and Lt. Lendsey failed to document the incident by way of (Use of Force Report) which is procedure and policy.

3. What was the result, if any? no use of force report was ever filed in this matter so they keep extending the time saying they need more time to give an appropriate answer. They are giving me the run around. That's what they do here at R.C.I. they are corrupt and wicked in their dealings.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

They don't let you appeal the grievance here. I filed it on 7-30-21 RCI-0721004300. They have me scheduled to ride out to a level 4 compound so I'm filing this beforehand because I know they are trying to stall me out. Again being corrupt. What's so hard about saying "we messed up. No use of force report was filed in this matter?" They were in the wrong and they don't want to own up to it. Point Blank.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. *When you are dealing with a group of correctional officers who are more corrupt than the inmates, you have to go beyond the call of duty to get them to act accordingly. They support one another's negativity, so they are not following the policy and procedure that govern the grievance process.*

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

8-24-21

Signature of Plaintiff

Troy Delano McRae Jr.

Printed Name of Plaintiff

Troy Delano McRae Jr.

Prison Identification #

A 739-664

Prison Address

R.C.I. PO BOX 7010

Chillicothe

City

OH

State

45601

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

①

II Basis For Jurisdiction (Continued)

D.

Captain Yates be called to my hearing because I was being treated unjustly. At that point Lt. Lendsey grabbed me by my arm and lifted me up from the floor and took me out into the open area of the dayroom in 5-A housing unit where I fell down to the floor lying face down. I did this because I was on camera and figured that Lt. Lendsey would call Captain Yates.

Well instead of Lt. Lendsey calling Captain Yates, he called a code over the radio for 'creating a disturbance' upon which 6 to 8 officers left their post to come to 5-A to see what the problem was. When I saw all the C.O.'s I yelled "I know my rights, don't touch me. Get Captain Yates or get the Warden down here!"

Lt. Lendsey then pulled out his Fox Pepper Spray and he threatened to spray me. I told him "I'm in handcuffs, non resistant, lying on the floor. You can't spray me."

Lt. Lendsey then told officer Tedesco and other officers to help him pick me up and carry me to my cell. When they grabbed me, Lt. Lendsey took hold of my middle finger and ring finger and started to bend them backward, at

continued II D.

which point I screamed out for help to a nurse who was present at the time. He was doing his rounds. I yelled, "Scott! Look what they're doing to me! They broke my finger!" They shoved me into the cell, closed the door and told me to turn around and give them the handcuffs. When I said, "NO." Lt. Lendsey then opened the cell door, grabbed me by the cuffs and began to yank my arms through the cuff port while the other C.O. (I'm not sure what his name is) started to bend my thumb. I was screaming because they were hurting me. Once they got the handcuffs off of my wrists, I saw Nurse Mike Scott on the ~~pe~~ top range so I called him and I held up my hand and told him that they broke my thumb on my right hand, and my middle finger and ring finger on my left hand. Mike Scott told Lt. Lendsey that I needed medical attention. Lt. Lendsey said "Medical is coming to 5-A to see him." At that point I began to kick the door and demand that I be taken to IHS so I can get medical attention and so I can have the incident documented. I was taken to

(continued II D.

IHS where Lt. Lemsey took a photo of my left hand with his cell phone, and then Nurse Mike Scott wrapped my hand up.

Note: All this took place on camera, yet, no use of Force Report was ever filed describing the incident.

RIB Case Number: RCI-21-004960
RCI-21-005016

(Continued IV B.

My fingers back on my left hand. M. Tedesco helped Lt. Lendsey yank my arms through the cuff port.

There were more officers who played a part in this incident, but I don't know their names because Lt. Lendsey never filed a Use of Force Report, naming the other officers who were present.